



MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Zermeño, followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS Bogue, McKillop, Sacks, Fraas, Halliday, Thnay
CHAIRPERSON Zermeño
Absent: COMMISSIONER None

Staff Members Present: Anderly, Conneely, Emura, Looney

General Public Present: Approximately 23

PUBLIC COMMENT

Deborah Rubie spoke regarding a house at 1842 Highland, which adjoins her property. She explained that the main house is in the front, which is used as a rental. She was disturbed by the disrepair of the shed in the rear, which is a non-conforming structure. She maintained that no improvements should have been permitted to this structure. The new owner came to the City of Hayward with 30-year old paperwork, which described a different structure than what is presently at the site. The City allowed a permit to be issued based on that information and a great deal of work to be done. She noted that much work had already been done to the structure including, a foundation, a roof, and plumbing, although she was told it is on sewer. She noted that the property is still an eyesore and it continues to be a rental unit. She maintained that with minimal work, it could be used as a dwelling. Although it is clear that this is 1844 Highland, there is a new address sign on the structure. She stated that this would affect the property values in the area. She also described her contact with City staff regarding this problem and related that she was basically told, until he actually rents the unit, there is nothing they can do.

Vic Cochrane said this property backs onto the side of his property. He said they were there to protest about this property being converted into living quarters. He noted that once before in the early 60's or late 50's, it was converted and then condemned. Since then it has only been used for storage. He described a letter received from the Planning Division saying it could be used for storage and could have plumbing installed. He protested the building as living quarters.

Lisa and Christopher Brunner said the owner ignored the letter he received from Planning Manager Anderly. They claimed that Associate Planner Pearson told them the permit might have been approved in error and that staff cannot do anything until someone moves in. She explained the history of the building and permits with the City of Hayward. She maintained that the City should uphold the property values in the City. She read a letter from the City regarding the residential rental ordinance for inspection of the unit. She said the neighbors were arguing that residents cannot make every out-building in the community a living unit. The City of Hayward

should take more of a pro-active stance in this instance.

Ron Araujo maintained that he had to move the shed on his own property because it was too close to the property line. The other side of his property was a vacant lot. At the time, he found out his shed was non-conforming which meant he had to have been legal at the time the City annexed the property. This was never legal within the County. This situation is particularly irritating to him after his situation. He noted that this should not be a legal non-conforming structure, either.

Lisa Brunner commented that in applying for a permit, the property description should be recent and not 30-50 years old. When they are that old, a person should pay to have to have a pre- inspection.

Commissioner Bogue asked whether they could ask staff to come back with a report on what has been happening here.

Planning Manager Anderly said she would be glad to write a report about what has been happening. However if none of the items come under their purview, they would not hear it. She commented that the property owner would be coming in to meet with her the next day. Because he is not here, and it was not agendized, she could not discuss it.

Commissioner Bogue wondered if the Commission would be able to decide whether they could make any interpretations.

Planning Manager Anderly responded that the Commission could determine an interpretation of a Planning Director's if referred to them.

Commissioner Halliday said it was interesting that neighbors who wish to appeal something the City has allowed, cannot come before the Commission.

Planning Manager Anderly said there is no discretionary application, so there is nothing to appeal. She added that she would report on what the staff intends to carry out.

Commissioner McKillop asked when they had contacted Community Preservation.

Ms. Brunner responded that she had contacted them a week ago and was told they would be put on a list. She added that they did not know the steps they were to take to address the problem. Associate Planner Pearson did tell her to take the issue to Community Preservation.

Commissioner McKillop asked whether, in a situation like this, is this the only avenue for residents to take.

Planning Manager Anderly explained that Community Preservation deals with debris of construction and the condition of the property. However, issues with the building itself, she could deal with or the Building Department deals with the building. If there is a report that a building too close to property line, that is an issue with which Community Preservation would handle.



Commissioner McKillop asked what the turn-around time between complaint and active response and investigation.

Planning Manager Anderly said she did not know, however at this point, there had been no permits issued.

Commissioner McKillop asked whether, were there any illegal activities in the building and construction would the Building Department have the right to red-tag the project.

At this point, Assistant City Attorney Conneely reminded the commissioners this is public comment and owner is not present, so the best thing is to wait for the report.

Commissioner Bogue asked when to expect the report.

Planning Manager Anderly said by the next meeting and she will also share this information with the neighbors.

AGENDA

1. **Variance No. PL-2003-0481 – Manuel Maravilla (Applicant/Owner) – Request to Allow a Garage Extension With a 10-Foot Width Where 11-Feet is Required – The Property is Located at 422 Elmwood Lane**
2. **Variance No. PL-2003-0462 – Marlene Milani (Applicant) / Julio and Rubi Magana (Owner) – Request for a Variance to Allow a Garage with a 14-Foot Front Yard Setback Where 20-Feet is Required and a 3'-10' Side Yard Setback Where 6'-8" is Required - The property is Located at 24025 Second Street**

PUBLIC HEARINGS

1. **Variance No. PL-2003-0481 – Manuel Maravilla (Applicant/Owner) – Request to Allow a Garage Extension With a 10-Foot Width Where 11-Feet is Required – The Property is Located at 422 Elmwood Lane**

Associate Planner Emura described the property and the existing building. He explained the applicant's plan to add a second floor. According to City regulations, the additional bedrooms and the increase in size of the dwelling require a two-car garage. The owner is proposing a tandem garage by extending the existing garage into what was once a sun porch. The owner has asked for a variance on the expanded portion of the garage since current zoning requires 11-foot interior. Staff recommended a denial of the variance, while noting that the Commission approved a similar variance on Ronald Lane, several blocks away. Staff could find no special

circumstances for this property. He also mentioned two emails in support of the improvements to the house.

Commissioner Fraas noticed that there were no other two-story houses in this area, except for one four houses down and was that done by permit.

Planning Manager Anderly explained that several years ago there were no design standards for single-family dwellings so it had to be before 1985.

Commissioner Sacks asked whether this is another situation where the driveway does not hold a whole car.

Associate Planner Emura said the current driveway is set back 19-feet so it can accommodate a car.

Commissioner McKillop asked what the difference between this proposal and the one granted in July.

Planning Manager Anderly explained that this is almost doubling the size of their living space.

Commissioner McKillop asked whether that variance was also for a garage.

Associate Planner Emura explained the difference and the need for their variances. This applicant indicates he would widen the garage to 11-feet just beyond the area of the house. That applicant was not adding as much square footage in that case. This is considerably more space.

Commissioner Halliday asked when the former addition that made this house 1,600 square feet instead of 1032 square feet was approved. The one.

Associate Planner Emura said he did not know when it was initially expanded. However, there are building permits for those expansions. Had it been added since the Design Guidelines were enforced, it would not have needed further garage space.

Commissioner Fraas asked whether the existing garage is 10 feet.

Associate Planner Emura explained that the interior dimension is 10 feet.

Commissioner Halliday asked whether had the property been expanded to its current size under the design guidelines, would they have been required to add another garage space.

Associate Planner Emura said that no, that would satisfy the 2-car garage requirement.

The public hearing opened at 8:18 p.m.

Manuel Maravilla, owner of the property, said he would respond to questions.

Commissioner Fraas asked whether they already park in the garage.



Mr. Maravilla said, no, he uses it for storage. However, a car would fit.

Commissioner Thnay asked how many cars they own, and with the addition would they have more people move into the house or would it be the same number of people.

Mr. Maravilla said they presently have three cars. They are expanding the house for the family to have more space.

Commissioner Thnay asked if the City grants the expansion, would he park in the tandem garage.

Mr. Maravilla responded that they would since the expansion would add more space for their family and storage, etc.

Commissioner Sacks said currently they have three vehicles at the house, and they do not anticipate more vehicles moving in. Since he currently uses it for storage, with more space in the house, will the storage go elsewhere and the cars would go into the garage.

Mr. Maravilla said yes.

Juan Gonzalez said he was the designer and they were trying to give the family more room in the house since they have three grown children.

The public hearing was closed at 8:23 p.m.

Commissioner Thnay said it looks like a good thing if the expansion goes. It seems like it would be beneficial to the City to compromise with the expansion. He said this would be taking two cars away from the street. It seemed to him as though staff did not seem to be objecting nearly as much as they might have done.

Commissioner Bogue said he agreed with the staff report that this variance is inappropriate. He said this would tend to cause a situation where the front would not be used for parking a car, but for storage. He believed that the intent of the requirement for a two-car garage would be to have 20' width, brings it up to the standard four spaces. Two spaces in the garage and two in the driveway. He moved, seconded by Commissioner Halliday, to approve the staff recommendation.

Commissioner Halliday said she seconded the motion although she usually would say find ways for people to expand their houses in the older neighborhoods. The first expansion already added a bedroom. This application is virtually doubling the size of the house. She added that the garage is the only thing the Commission has jurisdiction over. Given the plan for the size of the house, she said, she would stick to the rules. Approving this would be setting a precedent and creating a potential for doubling the people on the streets without adding any real usable parking.

Commissioner McKillop said the issue is whether or not to allow the variance on the size of the garage, not the size of the extension. She said she would not support the motion.

Commissioner Thnay said this is almost the size of his own house, and still people park in the streets. He said the size of the garage is basically irrelevant, the question is whether or not the garage is used. Not everyone will double his or her space. A lot of situations prevent this from happening. He said he would not support the motion.

Assistant City Attorney Conneely explained that the question is whether there are special circumstances associated with the land to grant a variance for this lot.

Commissioner Sacks also noted that this is about the variance only for the garage. Although she thought this is way too much house for the neighborhood, adding that she wished the Commission could say that people have to use their garage for parking their cars. There are many issues in this case. This is another example of why the neighborhood must sit down and look at itself, in order to examine things like the size of houses, parking, and the number of vehicles per residence. She said she would vote for the motion.

Commissioner Bogue agreed that it is about the variance and this house and lot being typical. As a result the options are limited and based on what is there. Additions set a new standard as to what else has to be done. He maintained that there are no grounds for a variance. This decision should not be based on one other decision. If it is inappropriate at this time, there is no reason to allow the variance.

Chairperson Zermeño said it is not the fault of the owners that their property is not car-friendly. He then encouraged support for the one-foot variance. This structure will improve the street. He said he wanted to assume the garage would be used for cars. This is a growing family, which needs more space.

The motion failed by the following roll-call vote:

AYES:	COMMISSIONERS Halliday, Sacks, Bogue
NOES:	COMMISSIONERS Fraas, McKillop, Thnay
	CHAIRPERSON Zermeño
ABSENT:	None
ABSTAIN:	None

Commissioner McKillop moved, seconded by Commissioner Thnay, to find the proposed project categorically exempt from the California Environmental Quality Act (CEQA) guidelines, and direct staff to bring back findings for approval.

Commissioner Bogue asked for a friendly amendment to have the conditions require that the parking space to be used for parking of vehicles and not as a living space, and maintenance of the landscaping as well as a possibility to widen drive-way to accommodate a fourth car. This was agreed to.



Associate Planner Emura added that the applicant had agreed to widen the garage addition beyond the back of the house.

Chairperson Zermeno suggested that staff encourage the applicant to expand the extension in order to have storage available.

Assistant City Attorney Conneely asked for a clarification of the motion as to whether or not this would approve the variance or whether it would come back with conditions for approval.

Commissioner McKillop explained this was not approving the variance but rather requesting staff to bring back findings for approval, in order to review and see whether approval is warranted.

Commissioner Halliday said she would support the motion on that basis.

The motion passed 6:1, with Commissioner Bogue voting "No."

2. Variance No. PL-2003-0462 – Marlene Milani (Applicant) / Julio and Rubi Magana (Owner) – Request for a Variance to Allow a Garage with a 14-Foot Front Yard Setback Where 20-Feet is Required and a 3'-10' Side Yard Setback Where 6'-8" is Required - The property is Located at 24025 Second Street

This item was continued to a date uncertain.

ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters

Planning Manager Anderly commented that Operation Paintball has not come back for further inspection. They did get permission for a courtesy inspection but have not called further. It's moving along but not as quickly as the City of Hayward expected.

Commissioner Bogue asked whether item two was coming back on a date certain or whether it would be re-noticed.

Planning Manager Anderly said it is not a date certain so it will be re-noticed.

4. Commissioners' Announcements, Referrals

Commissioner Halliday commented that she as well as Commissioners Sacks and Bogue were at Centennial Hall for an Alameda County Flood control presentation regarding enhancement of San Lorenzo Creek.

Chairperson Zermeño asked about having a work session on neighborhoods.

Commissioner Fraas said there are the neighborhood plans.

Commissioner Sacks explained that those are in the past; the problems now are looking into the future.

Commissioner Fraas disagreed. She said these are the wishes and dreams of the neighborhood, and the Planning Commission members need to read those plans. She explained that she was on the Task Force and worked long hard for a full year to develop their plan. She said she would be offended if it was not referred to and development throughout the neighborhood was not guided by those plans.

Commissioner Bogue commented regarding the earlier public comments. He said it was not clear as to the use of this building and whether it is a new structure.

Commissioner Halliday commented that the General Plan discussions included looking at what was being allowed in an older neighborhood. She suggested maybe looking at what has worked and what has not as well as getting more consistency in the older neighborhoods. She said they should look at current regulations for changes.

Chairperson Zermeño explained that in his neighborhood second stories have been added to four homes. He said he would like to know how the neighborhood has been impacted, and whether it would be possible to develop a study of "before and after" regarding what has been done.

Commissioner McKillop asked Commissioner Halliday about her adamant support of older homes but her denial of this previously discussed home expansion.

Commissioner Halliday explained that this was a difficult issue for her since it was an addition to a home that had previously been expanded.

Chairperson Zermeño then asked staff about a workshop on these issues.

Planning Manager Anderly responded that if he was asking staff to do a major study on reexamining older neighborhoods, that kind of effort has to be considered as part of the Planning Division work program every year because they are limited in staff and time. That has to be raised at budget time. This year is full of projects for staff time. The Planning work program is determined by City Council.

Chairperson Zermeño then asked about the upcoming Holiday dinner.

Planning Manager Anderly said she had emailed members about this and it was their option to let her know their pleasure, she added that she would refer back to them on dates. She added that on November 6, the agenda would include looking at Centennial Towers, the conversion of the former City of Hayward offices.

MINUTES



**REGULAR MEETING OF THE PLANNING
COMMISSION, CITY OF HAYWARD
Council Chambers
Thursday, October 23, 2003, 7:30 P.M.
777 "B" Street, Hayward, CA 94541**

APPROVAL OF MINUTES

- September 11, 2003 - Approved with minor changes
- September 18, 2003 - Approved with minor changes
- September 25, 2003 - Approved with minor changes

ADJOURNMENT

The meeting was adjourned by Chairperson Zermeño at 8:55 p.m.

APPROVED:

Christopher Thnay, Secretary
Planning Commission

ATTEST:

Edith Looney
Commission Secretary